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| Notice of Allowability | Application No. | Applicant(s) |
| | 09/916,114 | MAISENHOELDER ET AL. |
| | Examiner Mike Stahl | Art Unit 2874 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. This communication is responsive to amendments identified in attached Office action.
2. The allowed claim(s) is/are 42-62 and 93-97.
3. The drawings filed on 19 November 2001 are accepted by the Examiner.
4. Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some* c) None of the:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) hereto or 2) to Paper No./Mail Date _____.
 - (b) including changes required by the attached Examiner's Amendment / Comment or in the Office action of
 Paper No./Mail Date _____.
7. DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. Notice of References Cited (PTO-892)
2. Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. Notice of Informal Patent Application (PTO-152)
6. Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. Examiner's Amendment/Comment
8. Examiner's Statement of Reasons for Allowance
9. Other _____.

This Office action is in response to amendments filed January 25 2005, November 23 2004, October 26 2004, and September 20 2004. Claims 42-62 and 93-97 are pending following the amendments.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

- **Replace claim 43 with the following version:**

43. The process according to Claim 42, wherein the extension of the at least one grating structure is at least 0.5 cm parallel to the lines.

- **Replace claim 44 with the following version:**

44. The process according to Claim 42, wherein the surface area of at least one grating structure on the phase mask is at least 10 cm².

- **Replace claim 94 with the following version:**

94. The process according to Claim 43, wherein the extension of the at least one grating structure is at least 1 cm parallel to the lines.

The change to claim 43 restores “parallel to the lines” which was in the original version of the claim. This phrase is considered necessary since it defines the direction of the extension. The change to claim 44 deletes the third instance of “the” in order to overcome the objection made in the last Office action, since base claim 42 does not positively establish that there is more than one grating structure on the phase mask. The change to claim 94 inserts “the extension of” which appears in original claim 43 and should have been carried over to claim 94, and changes “line” to “lines”.

Allowable Subject Matter

Claims 42-62 and 93-97 are allowed. Applicant amended claim 42 to recite that the phase mask has a transparent region with a diffraction grating and that portions of that diffraction grating are masked. This is a structure which is clearly not disclosed or suggested by the previously applied Capodieci or Lyndin references. The prior art references of record do not teach or suggested using a phase mask having the recited structure in combination with all the other process steps of claim 42. Claims 43-62 and 93-97 all depend from claim 42.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Stahl at 571-272-2360. Inquiries of a general or clerical nature (e.g., a request for a missing form or paper, etc.) should be directed to the technical support staff supervisor at 571-272-1626. Official communications which are eligible for submission by facsimile and which pertain to this application may be faxed to 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MJS

Mike Stahl
Patent Examiner
Art Unit 2874

April 16, 2005

Rodney Bovernick
Supervisory Patent Examiner
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